

The Loan Arranger

Winter 2002

Municipal Facilities Section - Environmental Assistance Division
Michigan Department of Environmental Quality 

State Revolving Fund Assists in Lake Clean-up

by David Worthington

Lake St Clair, along with the St. Clair and Detroit Rivers, connects Lake Huron with Lake Erie and provides recreation for many thousands of people along its 24-mile length on the U.S./Canadian border. Fishing, boating, swimming, and wildlife viewing are just some of the activities the lake supports.

In 1994, however, it became apparent that pollution of the lake had to be curbed to protect public health. Sewage overflows from communities in the watershed were causing high fecal coliform counts, resulting in frequent closures of public beaches and violations of state and federal laws.



The Southeast Macomb Sanitary District (SMSD) responded to a Department of Environmental Quality (DEQ) directive and National Pollutant Discharge Elimination System permit requirements by submitting a Project Plan for State Revolving Fund (SRF) loan assistance in 1999 on behalf of its member cities of St. Clair Shores, Eastpointe, and Roseville. The DEQ approved the plan and a \$20,670,000 loan was issued to the Lake St Clair Clean Water Initiative Drain Drainage District in the first quarter of fiscal year 2001.

Unfortunately, a shortage of funds prevented the state from funding all of the project's eligible costs until the first quarter of fiscal year 2002, when segments 1B and 2 were funded (much of it refinanced) with an additional \$16,270,000 loan. Construction began in 2001 for the following: dry weather infiltration/inflow (I/I) removal; wet weather I/I removal; relief sewers under Jefferson Avenue and Marter Road; Hoffman Pump Station improvements; sewer separation in the cities of Roseville and Eastpointe; Martin Drain Outfall rehabilitation; and upgrade of controls and telemetering systems.

Additional projects in 2002 and 2003 are also anticipated to be funded by the SRF. Once the projects are completed in 2004, raw sewage will no longer enter the lake, combined sewage overflows will be more adequately controlled, and basement flooding due to pipe surges from inadequate conveyance ability should not occur. This work will result in dramatic improvements to the wastewater facilities in these member communities, resulting in water quality improvement for Lake St. Clair. This was possible due to the success of the SMSD in securing low-interest loans from Michigan's SRF.

NEW BUILDING NOW OPEN

The Michigan Department of Environmental Quality has moved into Constitution Hall. This new building is located at the corner of Pine & Allegan in downtown Lansing. Our mailing address remains the same, but if you are sending something by UPS or Fed Ex, use 525 W. Allegan, Lansing, MI 48933

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Reflections on Retainage

by Wendy Jansma

Since the inception of the loan programs, the handling of retainage has often confused program participants. Public Act 524 took affect January 1, 1983, and regulates the retainage of payments on construction contracts with public agencies. Let's look at the issues and the questions that have come up over the years regarding the applicability of this Act to the SRF and DWRF programs.

Public Act 524 states that if the public agency chooses to retain funds, the funds must be deposited in an interest bearing account for the contractor. The Act also states that a public agency **is not** required to deposit retained funds in an interest bearing account **if** the retained funds are to be provided under a **state or federal grant** and the retained funds have **not** been paid to the public agency.

The question has been raised over the years as to whether or not a public agency has the option of not depositing retained funds in an interest bearing account if the retained funds are to be provided under our SRF/DWRF loan. Under our loan programs, any funds drawn from a loan, including retainage, are subject immediately to our interest rates. Consequently, in order to avoid the earlier interest charges, some communities have opted not to request the retainage in a disbursement request until it actually needs to be paid to the contractor. However, this action has also caused disputes from contractors who believe that their retained monies should have been drawn and deposited into interest bearing accounts.

Unfortunately, Public Act 524 is subject to more than one interpretation. The Act exempts projects using state or federal **grants** from the requirement to deposit retained funds into an interest bearing account. It is silent on the applicability of this option to state or federal **loans** (subsidized by federal grants). Consequently, it is difficult to render an interpretation of this Act that would have sufficient validity to withstand a legal challenge.

While the decision is yours, communities and consultants should consider the impacts of how they may choose to handle retainage. The fostering of a good working relationship with your contractor may outweigh the monetary benefits derived from deferring retainage draws.



Seven More Loans Awarded

by Chip Heckathorn

In the first quarter of Fiscal Year 2002, five new loan commitments were made from the State Revolving Fund (SRF), and two new commitments from the Drinking Water Revolving Fund (DWRF), totaling in excess of \$93 million. The SRF provides low-interest financing for local units of government to make needed improvements to wastewater collection and treatment facilities, while the DWRF funds improvements to public drinking water systems.

The projects funded include a \$ 3,170,000 loan to the George W. Kuhn Drainage District in Oakland County to finance a portion of the reconstruction of the Twelve Towns Combined Sewer Overflow Control Facility. This project will provide for the improved retention and treatment of overflows that impact the water quality of the Red Run Drain, the Clinton River, and eventually, Lake St. Clair. This loan represents the fourth of five segments in the long-term CSO control program for the facility. Two loans totaling \$16,270,000 were tendered to the Lake St. Clair Clean Water Initiative Drain District to finance additional improvements to upgrade and expand the wastewater systems serving Eastpointe, St. Clair Shores, and Roseville. Funding was also provided to the city of Detroit (\$59,850,000) to finance the fourth segment of its combined sewer overflow control program, covering a portion of the costs for the construction of a retention/treatment structure along the banks of Conner Creek, and to Midland (\$5,130,000) for the construction of a wastewater retention basin. Since its inception in 1989, Michigan's SRF program has provided nearly \$1.6 billion in loan assistance.

Assistance from the DWRF was provided to the village of Muir (\$340,000), and the city of Port Huron (\$8,945,000) for improvements to their public drinking water systems. These loan commitments are the 63rd and 64th loans tendered under the program and bring total DWRF program commitments to nearly \$170 million.

DEQ Director Russell Harding noted that these programs continue to be the primary source of financial assistance available to local government and noted that although the ability of the SRF and DWRF programs to provide assistance continues to grow, much remains to be done:

"As the wastewater and drinking water infrastructures in Michigan continue to age, the need for assistance like that provided by the SRF and DWRF programs continues to grow. Assessments of infrastructure needs clearly show that significant investments will be needed in coming years if we are going to meet the growing challenge of protecting Michigan's water resources and the public health of her citizens."

Discount Rate Set for Fiscal Year 2002

The Environmental Protection Agency has set the discount rate for Fiscal Year 2002. For project planning that begins on or after October 1, 2001, a discount rate of **6 1/8 percent** (0.06125) should be used. This rate is ¼ point below that used for planning that began in Fiscal Year 2001, and continues a trend of decreasing rates that started in 1990.

Remember, this is NOT a rate that should be used to calculate debt retirement needs (2.5 percent, the loan rate for the SRF and DWRP does that), but rather is used in cost effective analyses to "bring" future expenditures back into today's dollars for total present worth or equivalent annual cost comparisons.

Jansma Promoted to Unit Chief



The Municipal Facilities Section (MFS) is proud to announce the promotion of Wendy Jansma to Chief of the West Unit. Wendy has worked in the MFS as a project manager since 1985.

She graduated from Michigan State University with a BS in Biology. Wendy has two daughters attending college, and has a dog and cat still at home.

Her 15 years of experience as a project manager will continue to serve the loan programs well in her new supervisory role. Communities and engineers who have dealt with Wendy will be happy to know that working relationship can continue.

CHANGES – QUESTIONS – COMMENTS

Do you know someone who would like to be added to *The Loan Arranger* mailing list? Has your address changed? Do you have a topic that you would like to see addressed in a future issue?

Please e-mail the editor, Cindy Salmon at salmonc@michigan.gov

New Arsenic Limit by Richard Benzie

In January of 2001, during the final days of the Clinton administration, the U.S. EPA promulgated a new maximum contaminant level (MCL) for arsenic in drinking water of 0.01 milligrams per liter (mg/l). In February, shortly after assuming control, the Bush administration suspended the proposed MCL to provide additional time to review the appropriateness and the cost (especially for small systems) of this revised MCL.

At EPA's request, the National Academy of Sciences reviewed available health risk information. Among their conclusions, they indicated that the health risks identified by EPA were essentially valid. They acknowledged that it was difficult to statistically detect relatively high risks from exposure to arsenic in this country. However, they concluded that arsenic can increase the risk of high blood pressure and diabetes, and that the risks for bladder and lung cancer incidence may actually be *greater* than the risk estimates on which EPA had based the pending rule. At the same time, the National Drinking Water Advisory Council reviewed the cost analysis of the proposed arsenic MCL. They concluded that EPA had produced a credible estimate of the costs given the constraints of rulemaking, data gathering, and cost models. They noted that differences in the handling of spent media (regeneration versus replacement) in various treatment methods accounted for much of the discrepancy in costs reported in other studies. They also concluded that Point of Use options may be appropriate for systems larger than those originally identified by EPA, particularly after cost revisions are considered and if the issue of access to private homes is resolved. Finally, they acknowledged that costs for compliance with the proposed MCL may be higher in some states due to more stringent hazardous waste requirements.

Based on these conclusions, EPA Administrator Christine Todd Whitman issued a statement indicating that the proposed MCL for arsenic of 0.01 mg/l was appropriate and would be implemented as originally promulgated. Therefore, the current MCL of 50 parts per billion will be replaced by the new standard in January of 2006. In Michigan, approximately 15 percent (over 150) of the community systems relying upon groundwater will likely exceed the new MCL. In addition, as many as 200 non-transient noncommunity public systems (schools, offices, etc.) will also find themselves in noncompliance.

The Drinking Water Revolving Fund will be available to community and *nonprofit* noncommunity systems to achieve compliance with this new standard. Public water systems interested in using the DWRP to assist in complying before January of 2006 should contact the Municipal Facilities Section (517-373-2161) of the Environmental Assistance Division for assistance.

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